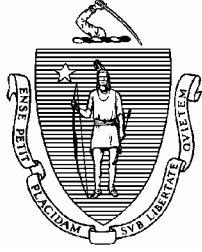


## Representative DEMPSEY of HAVERHILL

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill or resolve.

[illegible]



# The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND FIVE

## **AN ACT** REGARDING ACTIVITIES AFFECTING TIDELANDS FOR THE PURPOSE OF ENHANCING SECURITY AND PUBLIC SAFETY.

WHEREAS, activities in the Commonwealth that displace tidewater or affect tidelands are regulated by M.G.L. c. 21 A, §§ 2, 4, 8, and 14; c. 91 §§ 1 – 63; c. 91A, § 18; and 310 CMR 9.00;

WHEREAS, the Commonwealth, acting by and through the Department of Environmental Protection, may issue licenses approving activities in tidelands, subject to such terms, conditions, and fees authorized by law;

WHEREAS, pursuant to its authority under G.L. c. 91, the Department of Environmental Protection may be authorized in some circumstances to collect certain fees, or require the performance of certain conditions in lieu of such fees, associated with the volume of tidewater displaced and/or area of tidelands occupied by activities conducted in tidelands;

WHEREAS, the federal government has required, and may require in the future, that certain activities be performed within tidelands for purposes of enhancing the public safety and security of our nation, the Commonwealth, and its citizens; and

WHEREAS, the Commonwealth wishes to promote and assist in such federal mandates, which by their nature create a public benefit enjoyed by all persons residing or working in the Commonwealth.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Section 18 of chapter 91 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following sentence at the conclusion of that Section:

Notwithstanding the foregoing, no tidewater displacement or tideland occupation assessment shall be made, and no payment or performance of other conditions in lieu of a payment for such assessments shall be required, if such displacement of tidewater or occupation of tideland is: i) required by the federal government, the Commonwealth, or any subset of either the federal government or the Commonwealth, including but not limited to departments, agencies, authorities, commissions or bureaus; and ii) for the primary purpose of enhancing the national security and the public safety of citizens of the Commonwealth or these United States.

SECTION 2. Section 21 of chapter 91 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following at the conclusion of that Section:

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Notwithstanding the foregoing, no excavation or compensation shall be required for any displacement of tidewater if such displacement is: i) required by the federal government, the Commonwealth, or any subset of either the federal government or the Commonwealth, including but not limited to departments, agencies, authorities, commissions or bureaus; and ii) for the primary purpose of enhancing the national security and the public safety of citizens of the Commonwealth or these United States.

SECTION 3. Section 22 of chapter 91 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by adding the following at the conclusion of that Section:

Notwithstanding the foregoing, no compensation shall be required if the activities addressed by this section are: i) required by the federal government, the Commonwealth, or any subset of either the federal government or the Commonwealth, including but not limited to departments, agencies, authorities, commissions or bureaus; and ii) for the primary purpose of enhancing the national security and the public safety of citizens of the Commonwealth or these United States.